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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 2829 OF 2005

PETITIONER		Manohar Jethani, son of Late Dr. Variyal Das Jethani, aged about 40 years, resident of – Amardeep Talkies Road, Near Hotel Kohinoor, Ganesh Nagar, Raipur (C.G.)
	Versus	
RESPONDENTS	1.	State of Chhattisgarh, through – Secretary, Department of Health and Family Welfare, Mantralay, Dau Kalyan Singh Bhawan, Raipur (C.G.)
	2.	The Registrar, Chhattisgarh State Pharmacy Council, Qtr No.77, Sector-3, Geetanjali Nagar, Raipur (C.G.)
	3.	Pharmacy Council of India, Combined Councils Building, Kotla Road, Aiwah-E-Ghalib Marg, New Delhi – 110 002.

Present : Shri Y.C. Sharma and Shri Virendra Sharma, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A. for the State/respondent No.1
Shri Prashant Mishra, learned Sr. Advocate with Shri V.R. Tiwari, learned counsel for respondent No.2.
Shri Vinay Harit, learned Sr. Advocate with Shri N.S. Shrivastava, learned counsel for respondent No.3.

(ORAL ORDER)
(Passed on 6th February, 2006)

The dispute brought before this Court by way of this writ petition relates to legality of the insistence made by the 2nd respondent that in order to register the petitioner as a Pharmacist, he should again make an application envisaged under Sections 32 & 33 of the Pharmacy Act 1948 (for short 'the Act'). According to the petitioner, in view of the undertaken given by the 2nd respondent herein in writ petition No.1075/04, the

impugned insistence was totally uncalled for and against the undertaking given to the Court. According to the petitioner, in view of the undertaking given in the above writ petition, the 2nd respondent is duty bound to register the petitioner as a Pharmacist in terms of the Act.

(2) There is no controversy between the parties that before formation of the new State of Chhattisgarh w.e.f. 01.11.2000, the petitioner herein was registered as a Pharmacist under the Act by the Registrar of M.P. State Pharmacy Council. However, it is the case of the respondents that they had come to know that many persons who were registered under the Act as Pharmacists before formation of new State of Chhattisgarh are bogus persons and therefore, they thought it appropriate in the public interest to verify the records and conduct an enquiry into the circumstances which led to the registration of such persons as Pharmacists under the Act in the undivided State of Madhya Pradesh and in that view of the matter, all those who sought registration after formation of new State before the 2nd respondent were required to fill-in the prescribed applications under Sections 32 & 33. I am afraid that this contention now raised before the Court in the present writ petition is available to the respondent-authorities in view of the undertaking given to the Court in W.P. No.1075/04. In that case, through I.A. No.9761/2004, it was stated before the Court that in the meeting of the Pharmacy Council held on 13.12.04, a resolution was passed resolving that all such certificate holders who are the residents of State of Chhattisgarh and are working herein should be registered. In view of the above resolution passed by the Pharmacy Council, this Court disposed of this writ petition in terms of the said resolution. Even otherwise, in my considered opinion,

since admittedly the petitioner was registered as a pharmacist in the undivided State of Madhya Pradesh, he is entitled to be shown as a registered Pharmacist under the Act even after the formation of new State of Chhattisgarh, because, the new State of Chhattisgarh is a successor State and it cannot disown the action taken by the statutory and public authorities before formation of the new State, unless the law otherwise directs. It is not as if the respondents are prevented from taking corrective measures under the Act if the apprehensions now raised before the Court by them that some or many of the holders of the certificate are not genuine Pharmacists. Under Section 36 of the Act, the Registrar is empowered with the power to delete the name of a Pharmacist in register on one or other ground specified therein. Therefore, I think that enforcing the undertaking given to the Court in W.P. No.1075/04 would not result in any public injury or mischief. In that view of the matter, I dispose of this writ petition directing the 2nd respondent to register the name of the petitioner as Pharmacist under the Act without insisting that the petitioner should fill-in prescribed applications under Sections 32 & 33 of the Act. However, it is made clear that if there are any grounds for the 2nd respondent to proceed against the petitioner in terms of the Act, it is open form him to take corrective measures, in accordance with law. No costs.

Sd/-
Chief Justice

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